
IMPROVE MANAGEMENT AND SUCCESSFUL RE-ENTRY FOR ADULT AND JUVENILE REGISTERED SEX OFFENDERS

Sex offender registries were developed to improve law enforcement's ability to monitor offenders and to increase public awareness of dangers in the community. In 2010, the Texas Sex Offender Registry had more than 61,000 adult and juvenile registrants. It is the second largest in the nation, and it grows every day. Individuals on the sex offender registry were convicted of crimes that were sexual in nature, but the severities of the offenses vary greatly. All registrants appear on the registry in a like manner, regardless of offense, making it difficult for the public to distinguish between the different types of offenders. As a result, registrants are often regarded the same by the public and law enforcement regardless of offense.

In 2006, the federal government passed the Adam Walsh Act establishing comprehensive sex offender registration and notification requirements that may be costly for states to implement. Due to misconceptions about the sex offender registry, it is difficult for low-risk registered sex offender to reintegrate into the community. Offenders have a higher risk of recidivism when they are unable to maintain relationships in the community, find a job, and secure housing. Amending state statute to modify the sex offender registry and address concerns about the Adam Walsh Act could increase public safety and reduce recidivism.

FACTS AND FINDINGS

- ◆ Texas began registering sex offenders September 1, 1991. In 2010, there were over 61,000 registered sex offenders: 12,690 are considered low-risk and 4,800 are between the ages of 10 and 17. The Texas Department of Public Safety adds new registrants every day. The number of registered sex offenders will continue to increase because sex offenders are required to register for either 10 years or lifetime depending on the circumstances of their offense.
- ◆ States manage sex offenders differently. The federal Adam Walsh Act requirements are contrary to some states' philosophies on sex offender management and complying could require costly and extensive changes. States that do not comply with the Act lose 10 percent of a federal law enforcement grant.

- ◆ In Texas, certain youthful offenders (age 19 or younger) convicted of a sex offense based on consensual sexual contact are required to register if they and their victims are within three years of each other and the victim is age 13 or older. The federal law is more lenient, requiring offenders to register if the victim is age 13 or older and the difference in ages is not more than four years.
- ◆ There is little evidence supporting the theory that residency restrictions improve public safety. Sex offenders are less likely to reoffend when they reconnect with family and the community, find jobs, and live with a support network. Therefore, displacing registrants could increase recidivism.
- ◆ Most sex offenders in Texas must live more than 500 feet away from where children gather. The Board of Pardons and Parole determines each sex offenders residency restriction based on risk. According to the Texas Municipal League, at least 42 Texas cities have established broad sex offender residency restriction of greater than 500 feet.

CONCERNS

- ◆ The quantity of registered sex offenders and the quality of information on the sex offender registry limit the registry's ability to improve public safety.
- ◆ Non-violent juvenile offenders respond well to treatment and have lower recidivism rates than other categories of juvenile and adult offenders. Requiring them to register in the same manner as adults could hinder their success in reintegrating into the community.
- ◆ Sex offenders are less likely to reoffend when they reconnect with family and the community, find jobs, and live with a support network. Broad residency restrictions make it more difficult for sex offenders to comply with parole and probation requirements.

RECOMMENDATIONS

- ◆ **Recommendation 1:** Amend the Texas Code of Criminal Procedure to improve the usefulness of the sex offender registry and eliminate barriers to

successful reentry into the community by one or all of the following options: (a) require the Texas Department of Public Safety to include more information on the sex offender registry to help the public distinguish between registrants who are a risk to them and their families versus others whose actions resulted in registry; (b) require the Texas Department of Public Safety to limit the public registry to compliant medium- and high-risk registrants and all non-compliant registrants; and (c) clarify when the court may grant a petitioner's request for early termination of an individuals' obligation to register.

- ◆ **Recommendation 2:** Amend the Texas Code of Criminal Procedure statute to exempt certain youthful offenders from registration for a sex offense based on consensual sexual conduct if both participants are at least 13 years old and neither participant is more than four years older than the other.
- ◆ **Recommendation 3:** Amend the Texas Code of Criminal Procedure to prohibit local jurisdictions from establishing additional local residency restrictions for sex offenders.

DISCUSSION

Every state has a sex offender registry, and all state registry information is consolidated on the federal sex offender registry. Sex offender registries were developed to improve law enforcements ability to monitor offenders and to protect the public from sexual violence. Improved monitoring by law enforcement should deter some offenders from committing another crime. Registries are also intended to protect the public from sexual violence by raising awareness of the presence of individuals in the community who had been convicted of sexual violence, which should reduce the occurrence of sex crimes and enhance community safety.

Texas began registering sex offenders in 1991. By 1994, the first piece of federal sex offender legislation was enacted, the Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act. At that time, 24 states had sex offender registration statutes in place. In 1997, Texas sex offender registration laws were made retroactive requiring every individual with a certain sex offense that occurred on or after September 1, 1970 to register.

In 2010, there were more than 61,000 registered sex offenders in Texas. Of the 61,000, approximately 4,800 registered sex offenders are between the ages of 10 and 17. Texas requires

sex offenders to register for either 10 years or life, depending on the crime committed, and there is no process for an adult sex offender to be removed from the registry. Because of the length of time a sex offender is registered, the number of registered sex offenders has almost doubled since 1997.

EFFECT OF THE SEX OFFENDER REGISTRY ON RECIDIVISM

Extensive media coverage of high profile sex crimes has influenced the public and policymakers perceptions of sex crimes. Federal laws are named after high profile cases (Jessica's Law, Megan's Law, Adam Walsh Act), however, these cases are atypical of the crimes represented on the sex offender registry. According to the Bureau of Justice Statistics, 93 percent of sexual assaults against victims under 18, and 73 percent of sexual assaults against adults are committed by a family member or acquaintance of the victim.

The minority of registered sex offenders are violent, pedophiles, or rapists. There were 166 sexually violent predators in the state's civil commitment program in June 2010, and in the same year, 12.3 percent of registered sex offenders were considered high-risk offenders (most likely to commit another crime or sex crime).

Researchers have found that current registration policies are not effective in preventing sexual violence or decreasing sex crime recidivism, but instead may contribute to difficulty offenders have successfully reentering the community. Registries create an environment of negativity and stress for the offenders, both risk factors for increased recidivism. Sex offenders are less likely to reoffend when they reconnect with family and the community, find jobs, and live with a support network. Barriers to housing combined with employment and resistance from communities to support offenders convicted of sex crimes ultimately could increase an offender's risk of recidivism. The Washington State Institute for Public Policy's analysis of the effectiveness of sex offender registries and notification policies on reducing sex crimes found that registries do not have a statistically significant effect on recidivism. Although there is some concern about generalizing the results of the research to all populations, the research casts doubt about the effectiveness of current registry laws.

Nationally, researcher have found that sexual offenders are more likely to reoffend with a nonsexual offense than a sexual offense. Low-risk offenders reoffend at a lower rate than high-risk offenders, and older offenders reoffend at a lower rate than younger offenders. Sex offenders have a lower rate of recidivism than other groups of offenders. According to the Legislative Budget Board's (LBB) report Statewide

Criminal Justice Recidivism and Revocation Rates, 2009, the average re-incarceration rates for offender released from Texas prisons in fiscal year 2005 was 27.2 percent and the re-incarceration rate for sex offenders during the same period was 24.9 percent. However, in this Texas prison population the sex offense recidivism rate was higher than the nonsexual offense recidivism rate. The national statistics are based on all sex offenders not only those who reoffend after being incarcerated.

IMPLEMENTING THE ADAM WALSH ACT

Both state and federal laws play a role in establishing sex offender registration and notification requirements. In 1994, Congress enacted the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. Federal lawmakers concerned about possible gaps in sex offender law that resulted from modifications since its enactment, passed the Adam Walsh Child Protection and Safety Act (AWA) in 2006 to “protect children from sexual exploitation and violent crime.” The AWA includes provisions to:

- standardize the registration and notification procedures;
- create a national sex offender registry; and
- Established the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) to oversee compliance with AWA.

After its enactment in 2006, many organizations and states voiced concern that AWA did more than set minimum standards; it created comprehensive standards. The National Conference of State Legislatures (NCSL) agreed with the overall purpose of AWA, but expressed concern about its comprehensive approach and impractical standards. In a 2007 letter from NCSL to the Director of the SMART office, the organization states that:

“States have recognized the need to deter sex offenders, provide law enforcement with means for identifying and tracking locations of sex offenders and increase public protection from dangerous offenders with laws that require released sex offenders to register with law enforcement or other state agencies. Each state has sex offender registration laws, and, since inception of these laws many states have expanded requirements to include more categories of offenders, extended the duration of registration for the most serious offenders, added requirements for updating and verifying registry information, and established penalties for non-

compliance. NCSL objects to the AWA one-size-fits all approach to classifying, registering and, in some circumstances, sentencing sex offenders. These provisions preempt many state laws and create an unfunded mandate for states because there are no appropriations in the Act or in any appropriations bill. Many of the provisions of the AWA were crafted without state input or consideration of current state practices. The mandates imposed by the AWA are inflexible and, in some instances, not able to be implemented.”

States that do not “substantially comply” with the requirement of AWA can be penalized with a 10 percent reduction in federal Byrne Justice Assistance Grant funds awarded under 42 U.S.C. Section 3750 et seq. If a state fails to substantially implement AWA, the 10 percent reduction in their Byrne Grant will be applied only to the 60 percent in direct grants to states, and not the 40 percent in direct grants to local governments. The reduction will be applied in the fiscal year following the deadline for implementation (fiscal year 2012 allocation). The reduced funds would be redirected to other states that request additional funds to implement AWA. In 2010, four states have substantially complied with AWAs requirements: Ohio, Delaware, Florida and South Dakota. The deadline to implement AWA is July 2011.

State laws governing sex offender registration and notification varied prior to AWA making it more difficult for some states to comply with these changes than others. Implementing the federal requirements is contrary to some states’ philosophies on sex offender management. In some states, complying with AWA would require costly and extensive changes in laws and processes, therefore, states including California, Colorado, and Missouri have indicated it is more cost effective to delay or not implement AWA. **Figure 1** shows some primary differences between the provisions of AWA and current law in Texas.

States that do not comply with AWA may be required to spend significantly more than the 10 percent reduction in their Byrne Grant to implement the federal requirements. **Figure 2** shows the projected costs of implementing AWA in other states and the likely loss in Byrne Grant funds for not implementing AWA. State’s costs vary based on the difference between the states’ current law and proposed federal law, and the affected number of offenders and law enforcement units.

The Justice Policy Institute used the Virginia Department of Planning and Budget’s formula to estimate the cost of

FIGURE 1
ADAM WALSH ACT PROVISIONS COMPARED TO CURRENT TEXAS LAW, 2010

| Adam Walsh Act Provision | Texas Law | In Compliance |
|---|---|---------------|
| Requires certain juveniles be registered | Requires certain juveniles be registered | Yes |
| All categories of adult sex offenders on the public registry | All categories of adult sex offenders on the public registry | Yes |
| Tiered risk levels based on offense | Tiered risk levels based on risk assessment | No |
| In person registration and periodic updates based on risk level | Registration by mail and annual update regardless of risk level | No |
| No process for deregistration | A process for deregistration | No |

NOTE: Juvenile registration provisions were amended in guideline issued by the U.S. Attorney General in May 2010 allowing jurisdictions discretion to exempt information concerning sex offender required to register on the basis of juvenile delinquency adjudications from the public web posting site.

SOURCES: Legislative Budget Board; Council on Sex Offender Treatment.

FIGURE 2
SELECTED STATES' COSTS OF IMPLEMENTING THE ADAM WALSH ACT, 2010

| STATE | ESTIMATED COST OF IMPLEMENTING AWA (IN MILLIONS) | POTENTIAL LOSS IN FEDERAL GRANT FUNDS (IN MILLIONS) | NUMBER OF REGISTRANTS |
|------------|--|---|-----------------------|
| California | \$38.0 | \$3.2 | 115,542 |
| Florida | \$3.2 | \$1.9 | 50,393 |
| New Jersey | \$5.1 | \$0.7 | 12,353 |
| Virginia | \$12.5 | \$0.6 | 15,261 |

SOURCES: Legislative Budget Board; Council on Sex Offender Treatment; National Conference of State Legislatures.

implementing AWA in each state. In every state, the first-year cost of implementing the AWA outweighed the cost of losing 10 percent of the state's Byrne Grant funds. The institute's cost estimate to implement AWA in Texas is \$38.8 million. According to the Texas Department of Public Safety (DPS), the 10 percent penalty would have cost the state \$2.2 million in fiscal year 2010.

AWA would increase the number of sex offenders required to register and the frequency at which they report in person to local law enforcement agencies. Most of the cost increases required by AWA to manage sex offenders would be absorbed by local law enforcement; however, the loss in federal grant funds would only affect the state. The Texas Association of Counties (TAC) surveyed local law enforcement in September 2010 and collected information about the sex offender population and local jurisdictions' processes to better estimate the total cost to Texas to implement AWA. The questions included:

- number of sex offenders currently registered and residing in each local jurisdiction;
- number of law enforcement compliance verifications performed in calendar year 2009;

- number of additional in-person appearances at the registration office; and
- length of registration and number of high-risk offenders in each local jurisdiction.

Based on response from 75 local law enforcement agencies and a study conducted by the Austin Police Department, TAC and Texas Municipal League report that it is reasonable to assume implementing AWA could cost the state of Texas \$14 million per year to register sex offenders in the manner prescribed by AWA.

OFFENSES REQUIRING REGISTRATION

Federal and state laws define the categories of offenses that require registration, the age at which an offender is required to register, and the duration of registration. The actions of the registrant are not always captured by the title of the law that is listed on the registry with the offense or conviction information. The following titles are the statutory cites listed on the registry used to indicate a registrant's offense.

- Online Solicitation of a Minor;
- Compelling Prostitution;
- Prohibited Sexual Conduct;

- Possession or Promotion of Child Pornography;
- Indecent Exposure;
- Indecency With a Child;
- Sexual Assault;
- Aggravated Sexual Assault;
- Sexual Performance by a Child;
- Unlawful Restraint, Kidnapping, or Aggravated Kidnapping;
- Aggravated Kidnapping with intent to violate or abuse the victim sexually; and
- Burglary of a Habitation with intent to commit a sex crime.

The information on Texas' sex offender registry is not informative or easy to understand. The registry includes a photograph, a physical description of the registrant, home address, employer name and address, and legal description of registrant's offense. The basic offense information is not sufficiently detailed to be informative. **Figure 3** is a sample of one registrant's offense information.

The information on the registry does not make it easy to distinguish between violent and non-violent offenders. There are a variety of actions that could result in a conviction under Texas Penal Code 33.021, Online Solicitation of a Minor, Sex Conduct. A conviction for Online Solicitation of a Minor could range from a 33 year old adult posting an online advertisement seeking sex with a 13 year old minor to an 18 year old male sending an inappropriate sexual text message to his younger girlfriend. *Family Court Review*, 2008, suggests that minor criminals who do not pose any real or specific

threat to children should not be grouped with the dangerous and violent sexual predators.

RISK SCORE

Each sex offender is assigned a risk level that is listed on the registry. The risk assessment is intended to predict future crime and manage offender treatment and risk while under probation or parole supervision. There is general consensus among researchers that sex crime recidivism is associated with two broad factors: (1) deviant sexual interest and (2) antisocial lifestyle. There are four risk assessments that have an established history in the criminal justice community: Static99; Hare Psychopathy Checklist Revised (PCL-R); Level of Service Inventory revised (LSI-R), and Wisconsin Risk and Needs Tool.

Texas Department of Criminal Justice is directed by law to use the Static99 to assess offenders who are required to register as a sex offender. Some offenders are evaluated with a dynamic risk assessment which includes three assessments Static99, PCL-R, and the LSI-R. The Risk Assessment Review Committee and the Council on Sex Offender Treatment (CSOT) oversee the risk assessment process.

The Static99 assesses characteristics and behavior that correlate to recidivism. The Static99 considers 10 factors that are predictive of recidivism, including:

- number and type of prior offenses;
- relationship and gender of victim;
- age of offender; and
- offender's relationships.

Based on the results of the Static99 or the dynamic risk assessment, each offender is given a risk score of one, two or three.

FIGURE 3
EXAMPLE OF A TEXAS SEX OFFENDER REGISTRY ENTRY

| Offenses | | | | | | |
|--|------------|-------------------|------|------------------|-----------|-----------|
| TX:36990024 ONLINE SOLICIT MINOR SEX CONDUCT | | | | | | |
| Victim Sex | Victim Age | GOC | Time | Disposition Date | Discharge | Status |
| FEMALE | 14 | ATTEMPT TO COMMIT | 10Y | 2/28/2008 | NO | PROBATION |
| Citation | | | | | | |
| TEXAS PENAL CODE §33.021 (C) | | | | | | |

SOURCE: Texas Department of Public Safety.

1. Level one is low-risk—the individual poses a low danger to the community and will not likely engage in criminal sexual conduct.
2. Level two is moderate-risk—the individual poses a moderate danger to the community and may continue to engage in criminal sexual conduct.
3. Level three is high-risk—the individual poses a serious danger to the community and will continue to engage in criminal sexual conduct.

AWA requires that states' tier (I, II, or III) registered sex offenders, and AWA assigns risk by crime type and not by risk assessment score. CSOT believes establishing risk with an assessment rather than using crime type is more accurate and predictive of future behavior, and changing the way Texas tiers offenders to comply with AWA would be a step backwards.

INFORMATION ON THE SEX OFFENDER REGISTRY

Each state's sex offender registry is different. New Jersey, Minnesota, and Rhode Island record individuals who commit a sex offense that requires registration, but only include medium-risk, high-risk, and non-compliant offenders on its public registry. Low-risk offenders are registered, but their information is accessible only by law enforcement officials. In Texas, there were 12,690 low-risk offenders on the registry in July 2010. Removing low-risk offenders from the public registry would reduce the number of registrant by approximately 21 percent.

Figure 4 shows the categories of information included in the registry's offense field and their meaning. Each data element may be useful to law enforcement but because its meaning is not self-evident, would not be informative to the public.

States maintain a variety of information on their registries. **Figure 5** shows examples of registry information included in other states' registries that may be helpful in making the registry informative to the public and help the public recognize violent and predatory registrants.

FIGURE 4
DESCRIPTION OF REGISTRY OFFENSE FIELD INFORMATION, 2010

| OFFENSE FIELDS AS THEY APPEAR ON THE REGISTRY | MEANING – NOT DEFINED FOR THE READER |
|---|--|
| GOC | General Offense Character is used to define predatory offenses (e.g., Attempted Sexual Assault). |
| Time | Length of sentence in prison or on probation. |
| Disposition Date | The date the court ruled on the registrant's offense. |
| Discharge | An offender who serves his full sentence is not on parole after his release. He is considered discharged from state supervision. |
| Status | The status of the registrant's sentence, it may be supervision probation, parole, or incarceration. |

SOURCE: Legislative Budget Board.

FIGURE 5
BENEFICIAL INFORMATION IN OTHER STATES' REGISTRIES, 2010

| REGISTRY INFORMATION | PURPOSE | STATES INCLUDING INFORMATION IN REGISTRY |
|---|--|---|
| Offenders age at the time of the offense | Allows the public to compare offender's age and victim's age at the time of the offense. The registry information may mislead the viewer if the registrant has been registered for several years, but was a youthful offender at the time the court ruled. | Alabama, Delaware, Washington DC, Illinois |
| Relationship with the victim | To inform the public if the offender preys on strangers. | New Jersey, New York, North Dakota, West Virginia |
| Pattern of crime | To assist the public in assessing danger and risk level. | New Jersey, New York, Oregon |
| Original charge, conviction, or plea | To assist the public in assessing danger and risk level. | Missouri, New York, South Dakota, West Virginia |
| Repeat offender | To assist the public in assessing danger and risk level. | New Jersey |
| Use of force or a weapon | To assist the public in assessing danger and risk level. | New York |
| Definition of sentence | Provide a description of the legal citation in layman's terms. | Hawaii |
| Contact information for supervising officer | To give those who have concerns about a specific registrant a contact to follow up with about issues and concerns instead of approaching the registrant directly. | Oregon |

SOURCE: Legislative Budget Board.

OPTIONS TO IMPROVE THE USEFULNESS OF THE REGISTRY

A sex offender registry is intended to increase public awareness of dangers in the community by providing information on sex offenders who are a significant threat, however, there is an established body of research which finds that registration laws are limited in their ability to reduce sexual victimization. Some registrants are unlikely to reoffend because of age, marital and employment status and ties to the community. They respond well to treatment and are not serial or dangerous. Some sex offenders committed a sexually violent act against an adult or a child, they have a previous criminal history, and they are likely to reoffend. There are too many offenders on the registry both in terms of numbers and type of offense to make the registry useful to the public as they try to understand which offenders are dangerous. Local law enforcement officers who register and monitor sex offenders in the community have limited staff and resources to monitor the growing population of registrants. They could be more efficient if they focused their resources on high-risk offenders which would result in improved public safety.

There are options to improve the quality of information and the usefulness of the sex offender registry, but they differ depending on Texas' decision whether to implement the Adam Walsh Act. Options included in Recommendation 1 are not exclusive. All three could be implemented together, however, Option B and Option C may result in Texas' not meeting federal requirements and losing up to \$2.2 million in federal funds. According to the Texas Department of Public Safety and local law enforcement organizations, local law enforcement would not lose grant funds, but they would likely incur costs if the state were require changes in practices in Texas to comply with federal standards.

Option A of Recommendation 1 would amend Texas Code of Criminal Procedure, Chapter 62 to require DPS to include information on the sex offender registry that is currently available from local law enforcement, but is only maintained internally. Additional information about the offender and his/her offense would help the public distinguish between registrants:

- who are an immediate risk to them; and
- whose actions resulted in registry, but the circumstances of their offense and their risk level make them an unlikely threat.

The following are details that other states include on their public sex offender registry that would be helpful to include on the Texas sex offender registry.

- Offenders age at the time of the offense,
- Relationship to victim (e.g. family member, acquaintance, stranger),
- Details about the offense such as targets (e.g. teenage girls, homeless) and pattern of crime (e.g. poses as an authority figure, forcibly gains access to home)
- Use of force or a weapon during the offense,
- Original charge and conviction or plea,
- Repeat offender,
- Sentence (parole or probation), length of sentence, and contact information for the supervising officer or department.

Option B of Recommendation 1 would amend the Texas Code of Criminal Procedure Chapter 62 to require DPS to limit the public registry to compliant medium- and high-risk registrants and non-compliant registrants. The agency would register low-risk offenders in the same manner as other offenders, but low-risk registrant would be maintained on the secure registry which is only accessible to law enforcement.

Option C of Recommendation 1 would amend the Texas Code of Criminal Procedure Chapter 62 to clarify when the court may grant a petitioner's request for early termination of an individuals' obligation to register. The Texas Sex Offender Registration Program provides a process for registrants to apply to the court for early termination if he/she meets certain criteria. The early termination provisions were enacted by the Seventy-ninth Legislature, Regular Session, 2005. The provisions of the legislation include a reference to federal law. Federal law has changed significantly since the enactment the Texas deregistration process. The Jacob Wetterling Act was in place in 2005 and allowed for deregistration or an early termination for certain low-risk registrants. AWA, passed in 2006, does not allow for deregistration. Texas would have greater flexibility to manages sex offenders and the de-registration process if it were to remove reference to federal law in the Texas Code of Criminal Procedure Chapter 62.405(b)(2). This change would authorize judges to rule on the petitioner case without considering limitations of federal law.

EFFECTS OF REGISTRATION ON JUVENILE SEX OFFENDERS

In Texas, juvenile is defined as less than 17 years of age and in federal law and studies, juvenile is often defined as less than 18 years of age. Research suggests that juvenile sex offenders are more amenable to treatment than adults and pose a lower risk of reoffending. The sooner juvenile offenders enter effective treatment the more likely treatment is to prevent continued sexual offending. The Iowa Sex Offender Research Council found that the overall recidivism rate for juvenile sex offenders is low. Over three fourths of the registered juveniles studied had not had a new sex offense, charge or conviction during the three-year period of study. Recidivism data suggests that juveniles with sexual behavior problems are more likely to commit a property crime than another sexual offense, less than 10 percent of juveniles with sexual behavior problems recidivate with a new sex crime. According to the Iowa Sex Offender Research Council, placing juveniles on the sex offender registry for the same length of time as adults has significant negative effects on the future ability of juveniles to establish stable life styles.

The Texas registration requirements for youthful offenders (age 19 or younger) involved in a “consensual relationship” are stricter than the provisions of AWA. AWA is considered a comprehensive approach to sex offender management; therefore, it may be appropriate to evaluate provisions that are more stringent than AWA. In Texas, individuals under age 18 cannot legally consent to a sexual relationship; however, the relationship is described as “consensual” because both partners are willing participants. According to AWA, a sex offense conviction based on consensual sexual conduct does not require registration if both participants are at least age 13 and neither participant is more than four years older than the other. In Texas, individuals are required to register if the younger partner is age 13 or older and the difference between the partners’ ages is more than three years. **Figure 6** shows the difference between Texas law and the provisions of AWA.

Non-violent juvenile offenders respond well to treatment and have lower recidivism rates than other categories of juvenile and adult offenders. Requiring juveniles to register in the same manner as adults could have a negative impact on their recovery and successful reintegration into the community worsen their success in the community post conviction. Recommendation 2 would amend statute to mirror AWA. Recommendation 2 would exempt certain offenders age 19 or younger from registration for a sex offense conviction based on consensual sexual conduct if both

FIGURE 6
CONSENSUAL RELATIONSHIP SCENARIOS AND
REGISTRATION REQUIREMENTS, 2010

| | AGE DIFFERENCE (YEARS) | OLDER PARTNER'S AGE | YOUNGER PARTNER'S AGE |
|---------------------------------------|------------------------------|---------------------------|-----------------------------|
| As Proposed by Recommendation 2 | 4 | 19 | 15 |
| | 4 | 18 | 14 |
| | 4 | 17 | 13 |
| Current Texas Law | 3 | 19 | 16 |
| | 3 | 18 | 15 |
| | 3 | 17 | 14 |

SOURCE: Legislative Budget Board.

participants are at least age 13 and neither participant is more than four years older than the other. Recommendation 2 would increase, by one year, the age range between two individuals who engage in a sexual relationship for which the individual under age 18 and is unable to give consent. Current law allows individuals convicted of certain age related offenses to petition the court to be exempt from the duty to register as a sex offender. This process would continue unchanged.

SEX OFFENDER RESIDENCY RESTRICTIONS

There is little evidence supporting the theory that residency restrictions improve public safety. Sex offenders are less likely to reoffend if they reconnect with family and the community, find jobs, and live within a support network, therefore, displacing registrants could increase recidivism. The most common reentry barriers reported by sex offenders are difficulties securing housing and employment, ostracization, harassment, and emotional problems with their families. According to *The Journal of Contemporary Criminal Justice*, 2005, sex offender registries likely lead to social withdrawal and heightened anxiety and stress for sex offenders, both common precursors to reoffending. Accurately assessing sex offender risk levels, implementing effective interventions, and applying reasonable policies could reduce recidivism among sex offenders. Managing the challenges sex offenders face when reentering the community can reduce the risk that the sex offender will reoffend. According to the *Seton Law Review*, 2004, effective sex offender management strategies such as increased field contact, community support networks, and specialized surveillance benefit the public and reduce the number of future victims of sexual assault.

Most sex offenders in Texas must live 500 feet away from where children gather. The Board of Pardons and Parole

establishes each sex offenders' residency restriction based on the Board's assessment of risk. Residency restrictions in other states' vary from 500 to 2,000 feet. According to the Texas Municipal League, at least 42 Texas cities have established sex offender residency restrictions of greater than 500 feet from where children gather. The *Texas Tech Law Review*, 2010, published an evaluation of the implications of sex offender registry and urged the Texas Legislature to preempt municipal residency restrictions because they undermine the individualized treatment of offenders currently underway in Texas.

Expanded local residency restrictions limit housing and make it more difficult for sex offenders to comply with parole and probation requirements. Accurately assessing sex offender risk levels, and applying reasonable restrictions that balance safety and reentry needs could reduce recidivism among sex offenders. Recommendation 3 would amend statute to prohibit local jurisdictions from establishing additional local residency restrictions for sex offenders beyond the requirement the Board of Pardons and Paroles identified for the offender.

FISCAL IMPACT OF THE RECOMMENDATIONS

The state's decision whether to implement AWA or not would likely have a fiscal impact on state and local governments. None of the Options included in Recommendation 1 would result in a significant fiscal impact to the state. DPS estimates for previous legislation modifying the sex offender registry indicated the agency would not require additional appropriations. Therefore, it is assumed that the agency would absorb improvements to the usefulness of the registry within its current level of appropriations. Recommendations 2 and 3 would have no direct fiscal impact to the state. These recommendations would have no fiscal impact on units of local government.

The introduced 2012–13 General Appropriations Bill does not include any adjustments as a result of these recommendations.